

motions

FILED

JAN 28 2008

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

TO: Clerk of Court

my name is Bradley M. Hixm T78115 here at Salinas Valley State prison (Ad-seg) Im involved within your court an active case my case name is - Bradley M. Hixm v. Correctional officer J. cruzen cv. 07-6078(WHA). Im asking the court for a Immediate motion of Injunction and a declaratory Judgement in this matter is complete. Ive been violated against by J. cruzen's CO-workers and they have Violated my 1st Amendment by not Sending my legal mail out to some very important places and that it caused me much depression and Emotional stress See: Lewis v. Casey 518, U.S. 343 (1996). Ive been threated over periods of 20 days see Turner v. Safley, 432 U.S. 78 (1977) they have a very Sociistical attitude and very Malicious with behavior that is unnecessary. Ive been put up for transfer since 12-27-07 but yet hasnt recieved my transfer. my 602 appeal that has been entered on Correctional officer J. cruzen which hasnt been returned and I only have about 4 days to complete it to the Seamed level my dead line is over on 1-25-08 my due date was on 1-10-08 so now Im being violated my Constitutional Rights to file and exhaust my remedies on this Correctional officer J. cruzen. Im asking the court for a motion to proceed without Being prejudice towards my defendant. I will most likely suffer a great deal of harm, emotionally and mentally with harassment with my mail and case if Im

motion(s)

denied this Injunction & declaratory judgement please have me immediately transferred to my next prison so that I could continue my case on this correctional officer without harassment & mail not being able to be send out. In Exhibits (A) I have entered a personal copy of my own mail log for legal mail that comes in and get send out by me. on the front of my personal mail log is some circled mail that I had send out and signed by certain C/O back here in Ad-Seq but my legal mail never went out. in Exhibits (B) as you could see the dates on my personal log and Salinas log that my legal mail never made it out the unit also enclosing in Exhibits (B) is a copy of my inmate Appeals Assignment notice. in Exhibits (A) is an Affidavit from my cellmate that witnessed all of the above behavior for (A-yard & Ad-Seq) I'm also asking for punitive & Nominal damages money asking for both actions are:

= punitive damages - \$ 1500⁰⁰

= Nominal damages - \$ 1500⁰⁰

please Appoint me
a Counsel on my
Case.

Respectfully.

B. Hixson #78115

B. Hixson

Susp Soledad Ca 93960

Date Jan 23rd 2008

AFFIDAVIT

I, Michael Drebert K89472, declare, under the penalty of perjury that I am a witness to the following events that took place on November 11, 2007 and that the information I offer throughout this statement is true and correct.

On Nov. 11, 2007 while housed in A2-112, my cellmate Y/M Hixon T78115 failed to return to the cell that we were housed in, after the conclusion of dayroom (approx. 3:00 P.M.) After dinner, at approx. 6:00 P.M., an inmate informed me that Y/M Hixon was going to Ad-seg. A few minutes later C/O J. Cruzen walked by my cell for count and I attempted to ask him if my cellmate (Y/M Hixon) was going to "the hole" and why? He ignored my questions, gave me a "dirty look" and kept walking. A few minutes after that C/O Noguera came to my cell door asking for Y/M Hixon's property. I then asked him (C/O Noguera) why Y/M Hixon was going to "the hole" He told me that the reason was petty and that he attempted to speak up for Y/M Hixon but C/O J. Cruzen was not hearing it and that Y/M Hixon would be going to "the hole" because C/O J. Cruzen said he felt "threatened"

Upon my arrival to Ad-seg, Y/M Hixon and I agreed to be cellmates and have remained cellmates to this day. On or about the second week of December 2007, I am a witness to the fact that Y/M Hixon's mail (and legal mail) has disappeared after being picked up by staff.

The foregoing is true and correct. This statement has been written and signed without stress or duress.

Michael Drebert K89472

Date: 1/21/08

Michael Drebert

DATE	IN	OUT	ADDRESSEE/SENDER NAME & ADDRESS (MAIL LOG)	STAFF SIGNED	LEGAL
12-9-07		X	TO Grandma Ada	---	no
" "		X	Grandma Ruth	---	no
" "		X	clo Bentley	---	no
12-10-07		X	Property officer mendez	---	no
" "		X	Appeals coordination officer	---	no
" "			clo yee A-Yard	---	no
12-11-07	X		DOC Adult Division Institution - Sac.	clo Cesa	yes
" "		X	ISU Kern Valley	clo Chavez	yes
" "	X		Adult Division Institution - Sac.	clo Chavez	yes
" "		X	mail room	---	yes
" "		X	CCI Mency	---	no
12-12-07		X	STATE PERSONNEL BOARD Merits Appeals.	clo Cesa	yes
" "		X	USDC COURT House	clo Cesa	yes
" "		X	Grandma Ruth	---	no
" "		X	Grandma Ada	---	no
12-13-07		X	Law Lib clo Canchola	---	no
" "		X	GrA. NEATTI CDW	clo Rincon	yes
12-14-07	X		Legal log	clo Cherry	yes
" "	X		EBONY magazine	---	no
12-16-07		X	mother Judy	---	no
12-18-07		X	115 RVR Appeal	---	no
" "	X		USDC COURT House	clo Cesa	yes
12-19-07	X		J-PAY Slip	---	no
" "		X	Judy Drebert	---	no
" "	X		Warden Evans / <u>didn't go out</u>	clo Chavez	yes
" "		X	TRUST Office	clo Chavez	yes
" "		X	mail room	---	no
" "		X	LT MARTINEZ ISU	---	no
" "		X	Maintenance	---	no
" "		X	CCI Mency	---	no
" "		X	clo Canchola Law Lib	---	no
" "		X	Legal Documents TO COURT	clo Cesa	yes
" "	X		COURT Documents TO COURT	Reg/mail	yes
12-21-07	X		From TRUST COURT Documents	---	yes
12-23-07		X	Legal Documents TO TRUST x3	clo Willis	yes
" "		X	Appeals office	---	no
" "		X	TRUST Office	---	no
" "	X		Antonio Gold Internal Affairs / <u>didn't go out</u>	clo Willis	yes
" "	X		Office of Clerk / <u>didn't go out</u>	clo Willis	yes
" "		X	Van	---	no
" "		X	Grandma Ada	---	no
" "		X	Judy	---	no
" "	X		Rosen, Bien Galvan Attorney at law / <u>didn't</u>	clo Willis	yes
12-18-07	X		Warden Evans / <u>didn't go out</u>	clo Chavez	yes
12-22-07		X	Mail Room	---	yes
12-23-07	X		Mail Room	---	yes
" "	X		Appeal number	---	yes
12-27-07		X	MOM	---	no
" "		X	Grandma Ada	---	no
" "		X	Grandma Ruth	---	no
" "		X	CCI Variz	---	no
" "		X	R3 R SGT	---	no
" "		X	CCI Nickerson	---	no
" "		X	LAGAI Org	---	no
" "	X		DEPARTMENT of corrections / <u>didn't go out</u>	clo Miller	yes
12-28-07	X		Grandma Ada	---	no
12-30-07		X	San Joaquin County Court House	clo Cesa	yes
" "		X	mother Judy	---	no
" "		X	Grandma Ada	---	no
" "		X	CCI Mency	---	no
" "		X	CCI Nickerson	---	no

A Brief "Memorandum of Law"

① legal mail violation by prison officials See: Washington v. James, 782 F.2d 1134 (2d Cir 1986) Taylor v. Stebbins, 532 F.2d 462 (5th Cir 1976)

② Transfer to another prison to where im endorsed to for retaliation of mail See: Olim v. Wakinekona 103 S.Ct 1741 (1983) & Cloggett v. Pate, 229 F.Supp 818 (N.D Ill 1964)

③ on different dates on personal and institutional mail log my mail wasn't send out & was a continuing violation See: BART v. Telford, 677 F.2d 622 (7th Cir 1982) Campaign of Harassment

* note:

what Staff Continue to do to me is an "adverse Action" It was so scary to the point where I almost stopped as an "Average person" from continuing my law suit and it is a "causal connection to what im doing with my law suit (1983).

Respectfully D2/114
B. Hixon T78115
Sosp Soledad ca
Jan. 22. 2008 93960

A Brief 2nd Memorandum of law

according to the punitive Case: Smith v Wade 461 U.S. 20 (1983) P.L.R.A. does not apply to Claims for Injunctive or declaratory Relief or Claims for nominal or punitive Damages See: Harris V. Garner, 190 F.3d 1279 (11th Cir 1999) & Calhoun V. Detella, 319 F.3d 936 (7th Cir 2003) these people were & actions were motivated or evil motive or intent to cause me harm with my mail not being send out. this is the main reason I need to be send out to my next prison ASAP so I could go through with this case.

Respectfully Adlored
B Hixm / T78115

enclosed in part (B)

- mail room from Susp legal log CDC 119 1 & 2
- Inmate Appeal notice
- motion for Appointment of Counsel

Exhibits. B

<u>DATE</u>	<u>CDC#</u>	<u>NAME</u>	<u>ADDRESSEE</u>
10/11/07	T78115	HIXON	DIR. OF CORR., CHIEF, I/M APPEALS. SAC., CA. 94283
10/31/07	T78115	HIXON	INTERNAL AFFAIRS: SACTO. CA 95827
11/15/07	T78115	HIXON	ACLU OF NORTH. CA., SAN FRAN., CA. 94103
11/16/07	T78115	HIXON	M.A.EVANS/WARDEN. SOLEDADA, CA. 93960
11/19/07	T78115	HIXON	DIR. OF CORR., SAC., CA. 94283
11/19/07	T78115	HIXON	OFF. OF INTERNAL AFFAIRS, SAC., CA. 95812
11/26/07	T78115	HIXON	U.S.D.C.NORTH. DIST. OF CA., SAN FRAN., CA. 94102
11/29/07	T78115	HIXON	CDC OMBUDSMAN NORTH BUILDING SAC. 95814
12/3/07	T78115	HIXON	M.S.EVANS/WARDEN. SOLEDAD, A CA. 93960
12/3/07	T78115	HIXON	DIR. OF CORR., CHIEF, I/M APPEALS. SAC., CA. 94283
12/13/07	T78115	HIXON	U.S.D.C.NORTH. DIST. OF CA., SAN FRAN., CA. 94102
12/14/07	T78115	HIXON	G.A.NEOTTI-CHIEF DEPUTY WARDEN, SOLEDAD, CA. 93960
12/31/07	T78115	HIXON	SAN JOAQUIN CO. CRT. HOUSE. STOCKTON, CA. 95206
1/2/08	T78115	HIXON	US DIST COURT CLERK: SAN FRAN, CA 94102
1/4/08	T78115	HIXON	DIST.ATTY.-D.FLIPPO, SALINAS, CA. 93901
1/9/08	T78115	HIXON	LAW OFF. OF B.CLARK. WEST.MINISTER. CA. 92683
1/10/08	T78115	HIXON	SAN JOAQUIN CTY CRT STOCKTON CA 95206
1/16/08	T78115	HIXON	U.S.D.C.NORTH. DIST. OF CA., SAN FRAN., CA. 94102

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CT
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printed on Jan 6. 2008

<u>DATE</u>	<u>CDC#</u>	<u>NAME</u>	<u>ADDRESSEE</u>
10/11/07	T78115	HIXON	DIR. OF CORR., CHIEF, I/M APPEALS, SAC., CA. 94283
10/31/07	T78115	HIXON	INTERNAL AFFAIRS: SACTO. CA 95827
11/15/07	T78115	HIXON	ACLU OF NORTH. CA., SAN FRAN., CA. 94103
11/16/07	T78115	HIXON	M.A.EVANS/WARDEN. SOLEDADA. CA. 93960
11/19/07	T78115	HIXON	DIR. OF CORR., SAC., CA. 94283
11/19/07	T78115	HIXON	OFF. OF INTERNAL AFFAIRS. SAC., CA. 95812
11/26/07	T78115	HIXON	U.S.D.C.NORTH. DIST. OF CA., SAN FRAN., CA. 94102
11/29/07	T78115	HIXON	CDC OMBUDSMAN NORTH BUILDING SAC. 95814
12/3/07	T78115	HIXON	DIR. OF CORR., CHIEF, I/M APPEALS, SAC., CA. 94283
12/3/07	T78115	HIXON	M.S.EVANS/WARDEN. SOLEDAD, A CA. 93960
12/13/07	T78115	HIXON	U.S.D.C.NORTH. DIST. OF CA., SAN FRAN., CA. 94102
12/14/07	T78115	HIXON	G.A.NEOTTI-CHIEF DEPUTY WARDEN, SOLEDAD. CA. 93960
12/31/07	T78115	HIXON	SAN JOAQUIN CO. CRT. HOUSE, STOCKTON, CA. 95206
1/2/08	T78115	HIXON	US DIST COURT CLERK: SAN FRAN. CA 94102
1/4/08	T78115	HIXON	DIST.ATTY.-D.FLIPPO, SALINAS. CA. 93901

I received this slip on 12.5.07

INMATE APPEAL ASSIGNMENT NOTICE

To: INMATE HIXON, T78115
Current Housing: D8/131

Date: December 3, 2007

From: **INMATE APPEALS OFFICE**

Re: APPEAL LOG NUMBER: SVSP-D-07-05091

ASSIGNED STAFF REVIEWER: **CA2**
APPEAL ISSUE: STAFF COMPLAINTS

DUE DATE: 01/10/2008

Inmate HIXON, this acts as a notice to you that your appeal has been sent to the above staff for FIRST level response. If you have any questions, contact the above staff member. If dissatisfied, you have 15 days from the receipt of the response to forward your appeal for SECOND level review.

T. VARIZ, CC-II / E. MEDINA CC-II
Appeals Coordinators
Salinas Valley State Prison

5215